



DOCKET NO.: 6009-0015-14084

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: : GROUP ART UNIT: 1651

Renata Maria Anna CAVALIERE ved. ET AL : EXAMINER: AFREMOVA, V.

SERIAL NO: 09/525,940 : BATCH NO: D22

FILED: MARCH 15, 2000 : ALLOWED: MARCH 9, 2001

FOR: ENTERAL DIETARY  
COMPOSITIONS COMPRISING  
STREPTOCOCCUS  
THERMOPHILUS AND  
BIFIDOBACTERIUM LONGUM

PETITION UNDER 37 C.F.R. 1.182

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Applicants respectfully request consideration of the references submitted by applicants under 37 C.F.R. 1.97 on February 20, 2001.

On February 20, 2001 Applicants submitted a Second Preliminary Amendment, Terminal Disclaimer, and PTO Form 1449 under 37 C.F.R. 1.97. As evidence thereof, Applicants submit herewith copies of a Date-Stamped Filing Receipt, Preliminary Amendment, Terminal Disclaimer, and Form-1449. Examiner acknowledged receipt of the Form 1449 as evidenced by the Notice of Allowability dated March 9, 2001. The Examiner signed the Form-1449 but failed to initial all of the references.

March 8, 2001

Applicants respectfully request that the Office provide an initialed and signed copy of  
Applicant's Form 1449.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

**COPY**

Norman F. Oblon  
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Richard L. Treanor, Ph.D.  
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Dept.: Chemical

By: NFO:RLT:dlc

OSMM&N File No. 6009-0012-0 CONT

Serial No. 09/525,940

In the matter of the Application of: Renata Maria Anna CAVALIERE ved. VESELY  
ET AL

For: ENTERAL DIETARY COMPOSITIONS COMPRISING  
STREPTOCOCCUS THERMOPHILUS AND BIFIDOBACTERIUM  
LONGUM

The following has been received in the U.S. Patent Office on the date stamped hereon:

<input type="checkbox"/> pp. Specification &	Claims/Drawings	Sheets
<input type="checkbox"/> Combined Declaration, Petition & Power of Attorney		pages
<input type="checkbox"/> List of Inventor Names and Addresses		
<input type="checkbox"/> Utility Patent Application		
<input type="checkbox"/> Request for Priority		
<input checked="" type="checkbox"/> Check for	<b>\$110.00</b>	
<input type="checkbox"/> Fee Transmittal Form		
<input type="checkbox"/> Assignment/PTO 1595	pages:	
<input type="checkbox"/> Letter to Official Draftsman		
<input type="checkbox"/> Letter Requesting Approval of Drawing Changes		
<input type="checkbox"/> Drawings	sheets	<input type="checkbox"/> Formal
<input checked="" type="checkbox"/> PTO Cover Letter		
<input checked="" type="checkbox"/> Second Preliminary Amendment		
<input type="checkbox"/> Information Disclosure Statement		<b>■ Form PTO 1449's (2pp.)</b>
<input type="checkbox"/> Cited References		
<input type="checkbox"/> Search Report		
<input type="checkbox"/> Statement of Relevancy		<input type="checkbox"/> Cited Pending Applications
<input type="checkbox"/> IDS/Related/List of Related Cases		
<input type="checkbox"/> Restriction Response		<input type="checkbox"/> Election Response
<input type="checkbox"/> Declaration Under 37 C.F.R. §1.132		
<input type="checkbox"/> Request for Extension of Time		
<input type="checkbox"/> Notice of Appeal		
<input type="checkbox"/> Brief		
<input type="checkbox"/> Issue Fee Transmittal		
<input type="checkbox"/> White Advance Serial Number Card		
<input checked="" type="checkbox"/> Terminal Disclaimer		
<input type="checkbox"/>		
<input type="checkbox"/>		

Due Date: N/A



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**OBLON**  
**SPIVAK**  
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**&**  
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Docket No.: 6009-0012-0 CONT

ASSISTANT COMMISSIONER FOR PATENTS  
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RE: Application Serial No.: 09/525,940

Applicants: Renata Maria Anna CAVALIERE ved., et al.

Filing Date: March 15, 2000

For: ENTERAL DIETARY COMPOSITIONS COMPRISING  
STREPTOCOCCUS THERMOPHILUS AND BIFIDOBACTERIUM  
LONGUM

Group Art Unit: 1651

Examiner: V. AFREMOVA

SIR:

Attached hereto for filing are the following papers:

**PETITION UNDER 37 C.F.R. 1.182; PTO COVER LETTER (copy as filed Feb. 20, 2001);  
SECOND PRELIMINARY AMENDMENT (copy as filed Feb. 20, 2001); TERMINAL DISCLAIMER  
(copy as filed Feb. 20, 2001); PTO FORM-1449(2pp., copy as filed Feb. 20, 2001);  
DATE-STAMPED FILING RECEIPT (copy as filed Feb. 20, 2001)**

Our check in the amount of \$130.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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PATENT, TRADEMARK AND COPYRIGHT LAW  
AND RELATED FEDERAL AND ITC LITIGATION

Docket No.: 6009-0012-0 CONT

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

RE: Application Serial No.: 09/525,940

Applicant(s): Renata Maria Anna CAVALIERE ved. VESELY ET AL

Filing Date: MARCH 15, 2000

For: ENTERAL DIETARY COMPOSITIONS COMPRISING  
STREPTOCOCCUS THERMOPHILUS AND BIFIDOBACTERIUM LONGUM

Group No.: 1651

Examiner: AFREMOVA

SIR:

Attached hereto for filing are the following papers:

**SECOND PRELIMINARY AMENDMENT**

**TERMINAL DISCLAIMER**

**FORM PTO 1449's (2pp.)**

Our check in the amount of \$110.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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DOCKET NO.: 6009-0011-0 TRADEMARK of  
6009-0011-0 PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Renata Maria Anna CAVALIERE ved.  
VESELY ET AL

: GROUP ART UNIT: 1651

SERIAL NO.: 09/525,940

: EXAMINER: AFREMOVA

FILED: MARCH 15, 2000  
FOR: ENTERAL DIETARY COMPOSITIONS :  
COMPRISING STREPTOCOCCUS  
THERMOPHILUS AND BIFIDOBACTERIUM  
LONGUM

SECOND PRELIMINARY AMENDMENT

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Responsive to the telephone conference of February 14, 2001, Applicants submit  
herewith the requested Terminal Disclaimer.

REMARKS

Applicants would like to thank Examiner Afremova for the helpful and courteous  
telephone discussion of February 14, 2001. As discussed, a Terminal Disclaimer over parent  
Serial Number 08/952,820 (now U.S. Patent No. 6,077,504) will place this case in condition  
for allowance. This Terminal Disclaimer is attached hereto. In addition, Applicants have  
submitted herewith Form PTO-1449's listing the references considered in the parent case -  
the references cited by the Examiner and those cited in the International Search Report. As  
these references have all been considered and are of record in the parent, they have not again  
been submitted in this case. However, Applicant would like these references to be printed on

the front face of this patent, and for this reasons the attached PTO 1449's are attached.

Should anything further be necessary the Examiner is requested to contact Applicants' below-signed attorney.

Accordingly, in view of the telephone discussion and the attached Terminal Disclaimer Applicants submit that this case is now in condition for allowance. Early notification to this effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

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Attorney of Record  
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Richard L. Treanor, Ph.D.  
Registration No.: 36,379

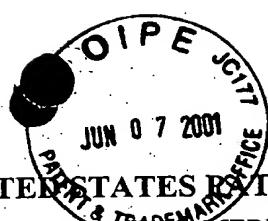


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Docket No. 6009-0012-0 CONT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Renata Maria Anna CAVALIERE ved.  
VESELY ET AL

GROUP ART UNIT: 1651

SERIAL NO: 09/525,940

EXAMINER: AFREMOVA

FILED: March 15, 2000

FOR: ENTERAL DIETARY COMPOSITIONS COMPRISING STREPTOCOCCUS  
THERMOPHILUS AND BIFIDOBACTERIUM LONGUM

TERMINAL DISCLAIMER

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Now comes the undersigned, Attorney of Record in the present application, who avers as follows: Renata Maria Anna CAVALIERE ved. VESELY and Claudio DE SIMONE

are the owners of the entire right, title and interest in and to the invention claimed and disclosed in the above-captioned patent application.

Renata Maria Anna CAVALIERE ved. VESELY and Claudio DE SIMONE hereby disclaims the terminal part of any patent granted on the above-captioned application, which would extend beyond the expiration date of the full statutory term as presently shortened by any terminal disclaimer of Patent No. 6,077,504, and hereby agrees that any patent so granted on said above-captioned application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent No. 6,077,504, this agreement to run with any patent granted on the above-captioned application and to be binding upon the grantee, its successors or assigns.

Renata Maria Anna CAVALIERE ved. VESELY and Claudio DE SIMONE do not disclaim any terminal part of any patent granted on the above-captioned application that would extend to the full statutory term as presently shortened by any terminal disclaimer of Patent No. 6,077,504 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Respectfully Submitted,

OBOLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

**COPY**

Richard L. Treanor, Ph.D.  
Registration No. 36,379

Date Signed

Form PTO 1449 (Modified)	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY DOCKET NO. 6009-0012-0 CONT	SERIAL NO. 09/525,940
LIST OF REFERENCES CITED BY APPLICANT		APPLICANT Renata Maria Anna CAVALIERE ved. VESELY ET AL	
		FILING DATE March 15, 2000	GROUP 1651

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
AA	5,716,615	02/10/98	CAVALIERE ET AL			
AB	5,310,555	05/10/94	ZIMMER			
AC	5,494,664	02/27/96	BRASSAT ET AL			
AD						
AE						
AF						
AG						
AH						
AI						
AJ						
AK						
AL						
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## FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	NO
AO	EP 0 555 618	08/18/93	EUROPE		
AP					
AQ					
AR					
AS					
AT					
AU					
AV					

## OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

AW	DATABASE WPI; Section Ch, Week 8943; Derwent Publications Ltd., London, GB; Class D13, AN 89-312205, XP002040064 & JP 01 228 456 A (SNOW BRAND MILK PROD CO., LTD.), 12 September 1989
AX	PATENT ABSTRACTS OF JAPAN; Vol. 016, No. 049 (C-0908), 7 February 1992 & JP 03 251159 A (NIPPON OIL & FATS CO., LTD.), 8 November 1991
AY	Elmer et al, "Biotherapeutic Agents", JAMA, March 20, 1996, Vol. 275, No. 11, pp. 870-876
AZ	Saavedra et al, "Feeding of Bifidobacterium bifidum and Streptococcus thermophilus to infants in hospital for prevention of diarrhea and sheeving of rotavirus", October 15, 1994, The Lancet, Vol. 344, pp. 1046-1049

Examiner

Date Considered

\*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Form PTO 1449 (Modified)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTY DOCKET NO. 6009-0012-0 CONT	SERIAL NO. 09/525,940
LIST OF REFERENCES CITED BY APPLICANT <i>COPY</i>		APPLICANT Renata Maria Anna CAVALIERE ved. VESELY ET AL			
		FILING DATE MARCH 15, 2000	GROUP 1651		
OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)					
	AAA	MASSIMO CAMPIERI ET AL; "Probiotics in Inflammatory Bowel Disease: New Insight to Pathogenesis of a Possible Therapeutic alternative?"; GASTROENTEROLOGY, Vol. 116, No. 5; May 1999; pp. 1246-1249			
<i>O I P E</i> JUN 07 2000 PATENT & TRADEMARK OFFICE	AAB	A. VENTERI ET AL; "Impact on the composition of the faecal flora by a new probiotic preparation: preliminary data on maintenance treatment of patients with ulcerative colitis"; Aliment Pharmacol Ther.; pp. 1103-1108; 1999			
	AAC	William J. Sandborn et al; "Medical Therap for Induction and maintenance of Remission in Pouchitis: A Systematic Review"; Inflammatory Bowel Diseases®, Vol. 5, No. 1, February 1999, pp. 33-38			
	AAD	G. BAZZOCCHI ET AL; "Change in Colonic Funtion and Fecal Microbiological and Enzymatic Activities Induced by a New Probiotic Preparation"; Gastroenterology International			
	AAE	P. GIONCHETTI ET AL; "Microflora in the IBD Pathogenesis Possible Therapeutic Use of Probiotics"; Gastroentrology International, Vol. 11, Suppl. 1.; pp. 108-110; 1998			
	AAF				
	AAG				
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	AAK				
	AAL				
	AAM				
	AAN				
	AAO				
	AAP				
	AAQ				
Examiner			Date Considered		

\*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.